

ORDINANCE 2008-13

AN ORDINANCE AMENDING ORDINANCE 2003-04

SECOND DWELLING UNITS IN RESIDENTIAL ZONES

17.72.020 Purpose and Definition. The City of Nevada City finds and declares that residential second dwelling units are an important form of housing that contributes to the character and diversity of housing opportunities in Nevada City. Residential second dwelling units provide workforce housing, housing for family members, students, elderly, in-home health care providers, the disabled and others, at below market rental rates within existing neighborhoods.

It is the intent of Nevada City to encourage residential second dwelling units and, additionally, to impose standards on such units that will enable homeowners to create residential second dwelling units that will be compatible, as much as possible, with their neighborhoods. An additional purpose of this Ordinance is to comply with Section 65852.2 of the California Government Code relative to residential second dwelling units.

A “Residential Second Dwelling Unit” or “Second Dwelling Unit” shall mean an attached or detached dwelling unit that is smaller and secondary to the primary unit allowed in all zoning districts that allow single family dwellings as a permitted use, and provides complete independent living facilities for one or more persons.

17.72.022 Application for Residential Second Dwelling Unit Permit

- A. A residential second dwelling unit permit is required to establish a new residential second dwelling unit in any zoning district that allows a single-family dwelling unit as a permitted use. Any application for a residential second dwelling unit that meets the unit size standards and development standards contained in Sections 17.72.024 and 17.72.026 shall be approved ministerially by the city planner by applying the standards herein and without a public hearing.
- B. Should a residential second dwelling unit fail to meet the unit size standards or parking standards provided in Sections 17.72.024 and 17.72.026 of this chapter, the residential second dwelling unit may still be allowed upon approval of a use permit by the planning commission at a noticed public hearing.
- C. An application for a residential second dwelling unit shall be made by the owner of the parcel on which the primary unit sits and shall be filed with the city planner on a city-approved application form and subject to the established fee.

17.72.024 Unit Size Standards

All residential second dwelling units shall meet the size standards listed below for attached or detached units or garages. Any deviation from the size standards listed below shall require the filing of a use permit application to be considered by the planning commission at a public hearing.

A. Attached Units:

1. The floor area of an attached second dwelling unit shall not exceed thirty percent (30%) of the existing Living Area. "Living Area" means the interior habitable/conditioned space of a dwelling unit including basements and attics but does not include a garage or any accessory structure. In no case shall an attached second dwelling unit exceed six hundred forty (640) square feet of interior living space.
2. An attached unit shall meet all setback requirements. However, if the existing primary residence was constructed in the setbacks and is a legal, non-conforming structure, the new constructed addition shall meet all setback and development standards of the base zoning district.
3. Conversion of existing garages to a residential second dwelling unit is not permitted. However, a residential second dwelling unit can be constructed above a new garage, not to exceed 640 square feet

B. Detached Units:

1. A detached unit shall not exceed eight hundred (800) square feet of living area, and shall meet all setback standards of the base zoning district. "Living Area" means the interior habitable/conditioned space of a dwelling unit including basements and attics but does not include a garage or any accessory structure.
2. A single-car carport may be attached to the second dwelling unit.
3. Conversion of existing garages to a residential second dwelling unit is not permitted. However, a residential second dwelling unit can be constructed above a new garage, not to exceed 640 square feet.

17.72.026 Development Standards

Any permit for a residential second dwelling unit shall be subject to the development standards listed below.

- A. **Legal Lot/Residence.** A residential second dwelling unit shall only be allowed on a lot within the city that contains a legal, single-family residence as a primary unit.
- B. **Number of Second dwelling units Per Lot.** No more than one (1) residential second dwelling unit shall be permitted on the lot.
- C. **Building Code Compliance.** All new residential second dwelling units must satisfy the requirements contained in the building code and fire code as currently adopted by the city, including applicable energy efficiency standards associated with Title 24 of the California Code of Regulations.
- D. **Hookup to City/Public Utilities.** Payment of appropriate fees for hookup to public water and/or sewer services is required. All residential second dwelling units must be connected to public water and sewer services. All fees applicable to

residential second dwelling unit construction, including park, road and recreation fees shall be paid to the city.

Newly permitted second dwelling units shall not be required to pay application, mitigation, or sewer and water hookup fees if accompanied by a deed restriction ensuring affordable rent to low or very low income household, as defined in Sections 50105 and 50079.5 of the California Health and Safety Code. Said deed restriction shall be effective for a minimum of 30 years. (2003 Housing Element Policy 2b).

- E. **Parking.** Each residential second dwelling unit shall have one (1) separate, off-street parking space. Such parking space shall be in addition to the required two (2), off-street parking spaces for the existing primary residence. The parking space can be gravel; however, no street parking or sidewalk access will be lost or obstructed. Front yard landscaping shall not be converted for parking. Tandem spaces will be accepted for the purpose of meeting parking requirements and parking can be permitted in setback areas. If these parking standards cannot be met due to unique circumstances, a use permit and parking plan can be filed and heard by the Planning Commission at a noticed public hearing.
- F. **Occupancy.** One of the units on the property must be occupied by the property owner. Only one of the residential units may be rented at any given time. The city shall require the property owner to file a deed restriction outlining the owner-occupancy requirement. The purpose of the deed restriction is to create a perpetual notice to the new purchasers of the requirement to maintain the owner-occupancy requirement.
- G. **Building Coverage.** The total coverage of all buildings shall not exceed fifty percent (50%) of the lot area.
- H. **Conversion of Existing Primary Unit.** An existing primary dwelling may be converted to a second dwelling unit if it complies with all applicable requirements of this ordinance. If so, a new, larger primary residence may be constructed.
- I. **Design Requirements for New Units.** All new residential second dwelling units must comply with the following design requirements:
 - 1. The materials, colors, and architecture shall be similar to and compatible with those of the primary unit.
 - 2. Second dwelling units shall not exceed the height level of the tallest existing structure on the parcel or as required in the base zoning district, whichever is less.
 - 3. Second dwelling unit entrances shall be screened from neighboring properties.
 - 4. Lighting shall not spill on to neighboring lots.
- J. **Accessibility Standards.** New construction of any ground level second dwelling unit shall be designed and constructed to allow for disability/accessibility standards. Plans shall demonstrate future entrance capability and actual construction shall include adequate door and hallway widths, maneuvering space

in kitchens and bathrooms, and structural reinforcements for grab bars.

17.72.028 General Plan Consistency

In adopting these standards, the city recognizes that the approval of second dwelling units may, in some instances, result in dwelling densities exceeding the maximum densities prescribed by the general plan. The city finds that this occurrence is consistent with the general plan, as allowed under state planning and zoning law applicable to second dwelling units, and that the amendment furthers the goals, objectives, and policies of the General Plan Housing Element.

17.72.030 Appeal Process.

In the event that an owner is denied a residential second dwelling unit permit, an owner may file an appeal consistent with this section. An appeal may only be submitted by an owner if he/she contends the city planner has either denied or imposed restrictions on the second dwelling unit that are not authorized by this chapter.

The appeal shall be made to the planning commission. The planning commission shall review the appeal at a public meeting. The appeal, however, shall be reviewed and either approved or rejected ministerially, in the same manner as described in Section 17.72.022 of this chapter, and not as part of a noticed hearing. The planning commission will not consider such an appeal, unless the appeal contains allegations that the determination to deny or impose conditions exceeded the authority granted to the city planner by this chapter. Said appeal must be filed within fifteen (15) days in accordance with the provisions of Section 17.88.050 of this Municipal Code.

Effective Date and Publication

This Ordinance shall become effective thirty (30) days after its final adoption, and a copy of this Ordinance shall be published in The Union, a newspaper of general circulation, within fifteen (15) days of the date of its passage.

PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of Nevada City held on this ____ day of _____, 2008 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Barbara Coffman, Mayor

ATTEST:

Niel Locke, City Clerk